

EXHIBIT E

Statement
by
Frederick R. Smith Q.C.
To
The Attorney General
and
the Commissioner of Police

Complaint
Against
Keod Smith

April 25, 2013

My name is Frederick Smith. I am a counsel and attorney and a Queen's Counsel of the Commonwealth of The Bahamas. I reside at Lot 9, Tract L Fortune Bay, Freeport, Grand Bahama. I am 56 years of age born on September 25, 1956 and I am a Bahamian citizen.

On Thursday April 25, 2013, as part of my responsibilities as a counsel and attorney and a director of the Coalition to Protect Clifton Bay, and continuing my enquiries preparatory to legal action, I visited Jaws Beach at the Clifton Heritage site just to the west of Lyford Cay, New Providence.

On visiting Jaws Beach at about 1.15 pm, I observed approximately five to seven men milling about and involved in construction of a new dock



at Jaws Beach. In addition, there was a tractor/backhoe in operation which was in the process of moving large boulders and placing them on the western side of what appeared to be the remnants of a concrete ramp between the canal, dock and the rocks.

As I was taking pictures there was banter between the construction workers and myself.

I went to the dock, put the camera down, introduced myself and started having sensible discussions with a number of the workers. I explained the work of the Coalition and they also shared with me some of their concerns.

I noticed the t-shirts which they were wearing.

The front of the t-shirt proclaimed "RE NEGOTIATE"; and underneath "Clifton is Ours; Don't Mess With Us".

On the back of the t-shirt, it says "We won't let LOUIS BACON AND HIS UNRIGHTEOUS COHORTS, ROB, LIE, TRICK OR BRIBE US OF OUR INHERITANCE; RE NEGOTIATE".

The exchanges which we had were reasonable and sensible and I asked them to explain to me their various concerns. They were particularly concerned about the creation of a marine park which would prevent them from fishing in Clifton Bay. I said that I understood that was a reasonable concern. I expressed that this was a reasonable issue to be addressed in discussions about creating a marine park.

In the course of our conversations, they seemed convinced that Mr. Louis Bacon was intent on taking land away from the Bahamian people, that they were fighting for their rights to have access to the bay, likewise Jaws Beach, their right to launch boats and to have free and undisturbed access to the beach.

I explained that no one was trying to take away the beach or prevent them from having access and they told me that up to about two and a

half to three years ago there was a gate which prevented people from having access to Jaws Beach. I answered by saying that I did not know about that and that it was perhaps something which the Clifton Heritage Authority had done. My conversations with them lasted for about half an hour and the longer the conversations occurred and the more persons I engaged directly, the more we all began to communicate and understood more where the Coalition was coming from and what their concerns were.

I even noticed that one had a Kalik beer in their pocket and I promoted Freeport Sands beer instead and promised to get them some, which they all appreciated.

They were very concerned about white rich Foreigners coming to the Bahamas and doing whatever they wanted and they accused Bacon repeatedly of trying to steal their land and “heritage”.

During our conversation they told me that Keod Smith was on his way and that I could speak to him. When they broke for lunch they went and sat under the casuarina trees to the west of the dock and in front of my rented Hertz vehicle.

I stayed near the dock and continued to take pictures.

At about this time, I decided to leave and was walking back to my car and some of the fellows called on me to say that if I really meant any good I would buy them all a cool drink since they were working so hard in the sun. I said no problem, took \$30 from my pocket and gave it to one of the workers who gratefully took it while all of the others joked about it. I said to him “**make sure you don’t accuse me of buying you all off now**”. To which they all laughed.

Up until this time, I had felt no fear, anxiety, or apprehension filming what was going on, talking with the workers, approaching the dock, being on the dock and having discussions with them or going back to my car.

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As I was walking back to my car a small white vehicle drove up and Keod Smith and a driver came out bringing boxes of Kentucky fried chicken.

I started to film this which seemed to anger Keod Smith no end.

I have a first video clip which records what I observed from his appearance on the site that he was already heated about my being there. He was also angry about my filming and came over to me and demanded that I delete what I had just filmed. He became very aggressive and as he did so, all of the workers began to congregate around me in a threatening manner.

I was at my car, and Keod Smith began almost a continuous flow of insulting verbal abuse and haranguing and threatening language which annoyed and offended me considerably.

I tried to calm things down and to address specific issues with him. I had made good ground with communicating with the workers and did not wish to have Keod say things which were not true or which were misleading without answering them. I thought that I could reason with Keod, a fellow counsel and attorney, and a person with whom I had had professional business in the past.

Keod Smith was demanding why I was on his beach; that I had no right to be there. He was very abusive with regard to Louis Bacon accusing him of being a liar; of trying to buy the Clifton Heritage site for \$25M; of having built a canal illegally; of being a drug smuggler; and many other things.

As Keod made accusations about the Coalition, or about me, or about Louis Bacon, and other issues, I tried to explain what I understood to be the truth. He also kept repeating that I was Bacon's lawyer which I emphasized that I was not.

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His group of workers were all watching and each of them took up and were holding either a large stick or branch, a hammer, a crow bar, a long piece of bent steel or other potential weapon.

At first, I thought that I could engage Keod in the presence of his workers to discuss the issues.

It was however, apparent that Keod Smith was determined to be angry, hurl abuse and threaten me.

Periodically I said to him things like, "Keod, you don't have to behave this way, we have known each other for a long time; you don't have to pick a fight, you don't have to put on a show, I have been talking with these guys; we have known each other too long, why are you behaving this way"

The person who came with Keod in the car was periodically mumbling and expressing anger and derogatory comments. It was somewhat of a continuous undercurrent.

As the exchanges ebbed and flowed Keod would periodically become very aggressive and very angry and pushed himself up into my chest several times and on a couple of occasions he brandished a large casuarina stick at me and was pushing my chest with his hands and jumping up into my face and screaming and hurling abuse at me. This happened on several occasions and on each occasion he was obviously trying to provoke a physical reaction by me to him.

Shortly after Keod came I recall that I did touch Keod in a gesture of friendliness either to shake his hand or to put out my arm towards him or to chat in a friendly way. I do not exactly recall this slight touching in any more detail other than it did occur. It was I believe filmed by his driver.

In any event, it was not a gesture by me which was an assault, threat, or attack. It was in the nature of a friendly outreach to a person whom I have known for many years.

In no other way did I threaten to assault, batter, attack or in any way put him or any of his workers in threat of harm.

Although, when I had originally engaged and was talking with all of the workers before Keod's arrival I was not feeling any fear, as Keod Smith worked his assaulting frenzy, I could see a number of his workers stenching up and picking up and holding the tools and instruments which were obviously now weapons in a ready to strike position.

These men had originally been sitting around on the bench and milling around eating their Kentucky which Keod had brought them.

Although initially, when Keod started engaging me I did not feel physically threatened, within minutes of his continuing his verbal attacks, I became frightened for my physical wellbeing. It became apparent to me that Keod Smith was getting his blood up and was determined to incite riot and harm towards me. I became fearful of the workers and what they might do to me because they were obviously controlled by Keod Smith because they did what Keod told and incited them to do

At one stage I tried to leave but Keod said that I was on his beach now and that I could not just decide to leave, I could only leave when he told me I could leave. I got into my car and tried to move it but he told the workers to surround the car and he stood directly behind the car and prevented me from moving. I could not go forwards or backwards.

I got out of my car and was still surrounded by the workers and Keod began haranguing me again. I stood at the back of my car to give myself some protection from the back while his workers were on the side and Keod stood in front of me.

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Periodically, he came very close and again started jabbing and jarring me in my chest and apparently trying to provoke a fight. He was in a rage. The workers milled about and he went back to his car for something. I again tried to leave and he came dashing back and told the tractor driver to hurry up and bring the tractor behind my car so that I could not reverse.

In front of my car was the beach and it would have been difficult, if not impossible for me, to flee in that direction. I was very frightened for my life at this stage and the car was surrounded by all of his men. Keod had a big stick about 4 feet long and all of the others were brandishing their weapons of one sort or another, putting me in fear of physical harm.

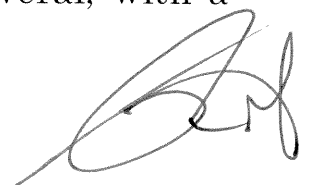
I took a chance that I could go and try the beach way. They did not expect me to do so and I was able to drive over the brow of the beach hill. I had to stay very close to the tree to get traction for the tyres. At one stage one my tyres was spinning in the sand but I managed to veer around several of his workers who began rushing to the other side of the car.

One person stood in front with a stick while others started hitting the car with their weapons, all the while Keod was shouting **"Don't let him go, don't let him go"**.

The vehicle had dents on the front hood from where it was being struck. I moved forward. As I inched forward the one in the front moved to the side slightly and I was able to go past him without touching him although it broke the stick on the right hand side of the car. As the stick was long and a part of it was on the ground being held upright by him, I believe the tyre went over it and pushed it down.

The car did not touch the gentlemen who had been in front.

As I was managing my way around the casuarina tree and they were banging on the car, someone landed a heavy blow, or several, with a

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steel curved bar and broke the back of my windshield. The smashing, shattering and glass flying into the back of the car, terrified me. By that time I knew my life was in danger.

I was fearful that my life was in danger, because Keod Smith had incited these workmen to riot, disorderly behaviour and to assault, to inflict harm on me and to maliciously cause actual damage to the self drive rental vehicle which I had from Hertz to wit, denting the hood in several places and smashing the back windshield.

I then drove towards the street and stopped just where the sand ended and looked back. I caught my breath and saw where the entire back windshield had been smashed in. I estimate the cost and damage to repair this will be at least \$1,000 but an accurate estimate will be obtained and provided to you. I took photographs of the shattered back windshield.

As I did so, I was surprised to see Keod making his way towards me. I filmed his approach as you will notice from another video in my possession taken by me and kept asking him why he did this and he kept asking why I had come there to cause trouble.

In filming him I realized why he took the opportunity to come to my vehicle.

When he reached the back of my vehicle he placed his hand through the shattered, broken windshield and removed the steel bar which had been used to smash my back windshield, thereby removing evidence which would have had fingerprints and which would have proved who actually did the damage which Keod Smith incited before and during my flight and which he abetted after the fact by taking away the evidence and thereby causing it to be concealed from production to you, it having been in my car.

Until Keod Smith arrived I was not in fear of my life or felt any danger. Although the conversation between me and some of the workers had

some touchy issues about race, etc., I was able to engage in sensible and reasonable discourse and even went back and sat down with some of them shaking hands and getting to know them.

After Keod's arrival, I began to feel more endangered, threatened and frightened. As Keod's haranguing of me became more and more heated and his attacks on me increased and his inciting the workers to do me harm increased, I became more and more and more frightened.

I escaped with my life and unharmed except for the batteries on my chest.

None of the assaults and batteries or threats of harm would have occurred if Keod Smith had not been encouraging them or inciting the workers to take violent action against me.

I hold Keod Smith completely responsible for the harm and threats of harm which I was subjected to and I ask the police to take appropriate action against Mr. Keod Smith.

I no longer feel safe. During the course of his exchanges Keod made it plain I was not welcome in Nassau; what was I doing coming from Freeport to interfere with things and that I was only creating trouble and he was telling the workers, **"Now you see who he is; That's Bacon's lawyer; 'That's the Haitian'"** and that I was not Bahamian and that I had to swear an oath to become Bahamian.

As Keod's attacks on me became more heated I was completely shocked at his behavior. I could not understand why a fellow counsel and attorney, a colleague and a person who I had known as a reasonable man should have arrived on the scene and been so aggressive and in a rage towards me.

I must also say that I consider Mr. Louis Bacon is not safe in Nassau as he repeatedly said he was going to take care of Mr. Louis Bacon and me.

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In particular with respect of Mr. Bacon he said that before Keod Smith was finished he would make sure that Louis Bacon was jailed in Fox Hill Prison and he said "I have a big 6 foot black man that is going to take care of Bacon when we get him into Fox Hill".

He also insisted that Bacon was a liar, and that Bacon wanted this property. And that Bacon had offered him \$25,000,000 for the land and that Bacon could not escape, because he, Keod Smith, had all of the papers to show all of this.

He also said that Bacon, and I and others would have been sued for libel a long time ago except that we had a couple of members on our Board of Directors and for that reason he would not sue for defamation.


He kept accusing and winding everybody there up about Bacon being part of the Klu Klux Klan and that his people were not going to let Bahamians be abused by Louis Bacon or any other racist.

He said that he was an activist and that I did not know who I was playing with and that he was a "warrior" and was going to show Bacon and everyone working with Bacon, what he was about.

During the exchanges, I had asked Keod Smith if he had a permit for doing the works at Jaws Beach and he proclaimed that he, Keod Smith, did not need a permit to do what he needed to do on his public beach.

I hereby make available to you an electronic copy by CD of all of the still photographs and video clips which I took in regard to the above incident and as the maker thereof I am prepared to put the same into evidence.

For most of the time that the exchanges took place between myself and Keod Smith a person who had driven up and was driving Keod's vehicle filmed us on his Smart phone.

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Accordingly a record of most of the verbal exchanges between us is on record and I urge the police to quickly obtain a copy of those recordings because they are the best evidence.

I hereby complain against the said Keod Smith and other persons present at the aforesaid day and time for being concerned together in the following criminal actions against me,

1. Unlawful assault contrary to section 133 of the Penal Code
2. Uttering threats of harm contrary to section 203 of the Penal Code
3. Causing public terror contrary to section 205(1) of the Penal Code
4. Making use of violent, scurrilous and highly abusive language to provoke other persons to breach the peace contrary to section 208(1) of the Penal Code.
5. Threatening abusive and insulting language to my annoyance contrary to section 208(2) of the Penal Code.
6. In a public place using threatening language concerning other persons to wit, Louis Bacon, contrary to section 208(7) of the Penal Code.
7. Unlawful assault against me contrary to section 264 of the Penal Code.
8. Causing unlawful and malicious damage to my self drive automobile Registration Number SD-36 being a Nissan Versa 2012 rented by me; smashing the rear windshield of the said vehicle, and denting the front hood, causing damage of likely in excess of \$1,000 in my estimation, to be verified by an estimate contrary to section 328 of the Penal Code

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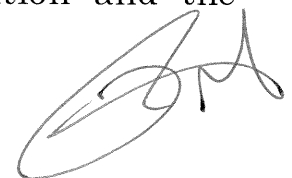
9. Taking part in unlawful riot, being armed with offensive instruments, to wit, wooden sticks, crowbar, hammer and other metal objects contrary to section 410 of the Penal Code.
10. Using violence with intent to deter myself from acting as counsel and attorney in legal proceedings or inquiring about the same about to be commenced contrary to section 420 of the Penal Code.
11. With reference to all of the aforesaid offences, abetment of the respective offences contrary to section 86(1) of the Penal Code. In this latter regard, not only was there a direct instigation, encouragement, promoting of others, but after the fact in the case of Keod Smith himself of removing evidence from the scene of the crime that could easily have been fingerprinted.

I make this statement of my own free will and volition and it is correct and true to the best of my knowledge and belief.

I make the same in respect of my request for police action.

I am continuing to review this statement in the event that I may be able to recall any further information for inclusion in due course. It is obviously not a complete record of everything which was said and which occurred.

I have on several occasions today since the above described incident, attempted to contact the Commissioner of Police to make an appointment to personally report this. Unfortunately, we have not been able to make contact. In addition, signed copies of this Statement are being hand delivered to the Commissioner of Police in care of the Police Headquarters, Central Police Station and the

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Officer in Charge of the Cable Beach Police Station and to the Office of the Attorney General. I am also sending electronic copies of this to the Commissioner of Police.

Signed: _____


Frederick R. M. Smith Q.C.

25. April 2013